

REMARKS

The Office Action dated October 22, 2004, has been received and reviewed.

Claims 1-27 are currently pending and under consideration in the above-referenced application, each standing rejected. Claims 28-47, which were withdrawn from consideration, have been canceled without prejudice or disclaimer.

Reconsideration of the above-referenced application is respectfully requested.

Drawings

The drawings have been objected for various informalities.

Replacement drawings with a marking in red to identify the inclusion of reference character 50 and its accompanying lead line are submitted herewith.

Objections to Specification

The disclosure is objected to because of the various informalities.

The specification and drawings have been revised in accordance with the suggestions that have been set forth in the outstanding Office Action.

Objections to Claims

Claims 1-27 were objected to because of various “informalities.” The claims have been revised in accordance with the suggestions presented in the Office Action. None of these revisions narrows the scope of any of the claims, as none of the claim elements has been changed.

Additional Claim Amendments

The claims have also been revised to replace the term “said” with “the.” These are equivalent terms; therefore, none of these revisions narrows the scope of any of the claims.

Rejections Under 35 U.S.C. § 102

Claims 1-3, 6, 13-15, and 21-23 stand rejected under 35 U.S.C. § 102(e) for reciting subject matter which is purportedly anticipated by that described in U.S. Patent 5,945,968 to Hush (hereinafter “Hush ‘968”).

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single reference which qualifies as prior art under 35 U.S.C. § 102. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Hush ‘968 describes a matrix-addressable display comprising a field emission array that is configured to eliminate undesirable variations across the array in the electric field intensity for a given voltage difference. The display of Hush ‘968 includes an arrangement of transistors 66, 67, and 68. In particular, two of the transistors 66 and 68 are connected in such a way that the voltage that is emitted from an emitter (which communicates with an n-well) may be controlled. In addition, a capacitor 70 is positioned electrically between the common node and a ground.

Independent claim 1 recites a video imaging system that includes a field emission array, and image signal detector, and an extraction grid. The field emission array includes, among other things a capacitor. A first side of the capacitor of independent claim 1 communicates with the same n-well with which the emitter tip communicates and a second side of the capacitor of independent claim 1 communicates with a baseline potential transistor.

While one side of the capacitor 70 of the display disclosed in Hush ‘968 communicates with a node 69 that, in turn, communicates with two transistors 66 and 68, the other side of that capacitor 70 communicates with a ground. Col. 4, lines 39-41; Fig. 2.

Moreover, the device described in Hush ‘968 does not include an image signal detector. Instead, the disclosure of Hush ‘968 is limited to a device that includes column lines for transmitting image signals to the emitter tips. Col. 2, line 42, to col. 3, line 3.

Therefore, Hush ‘968 does not anticipate each and every element of independent claim 1, as would be required to maintain the 35 U.S.C. § 102(e) rejection of independent claim 1.

Claims 2, 3, and 6 are each allowable, among other reasons, for depending from claim 1, which is allowable.

Independent claim 13 recites an image detection apparatus that includes, among other things, a capacitor that communicates with n-wells (which, in turn, communicate with emission pixels) *and* signal transmission and baseline potential transistors.

In contrast, the capacitor 70 described in Hush '968 communicates with a ground and a common node 69 between two transistors 66 and 68.

Moreover, Hush '968 lacks any express or inherent description of an image signal detector that communicates with a signal transmission transistor.

Therefore, Hush '968 does not anticipate each and every element of independent claim 13. As such, under 35 U.S.C. § 102(e), the subject matter recited in independent claim 13 is allowable over the subject matter described in Hush '968.

Each of claims 14, 15, and 21-23 is allowable, among other reasons, for depending directly or indirectly from claim 13, which is allowable.

For these reasons, withdrawal of the 35 U.S.C. § 102(e) rejections of claims 1-3, 6, 13-15, and 21-23 is respectfully solicited.

Rejections Under 35 U.S.C. § 103(a)

Claims 4, 5, 7-12, 16-20, and 24-27 stand rejected under 35 U.S.C. § 103(a).

Claims 4, 5, 19, and 20 stand rejected under 35 U.S.C. § 103(a) for reciting subject matter which is assertedly unpatentable over that taught in U.S. Patent 5,945,968 to Hush (hereinafter "Hush '968"), in view of teachings from U.S. Patent 5,889,313 to Parker (hereinafter "Parker").

Claims 7-12, 16-18, and 24-27 stand rejected under 35 U.S.C. § 103(a) for reciting subject matter which is assertedly unpatentable over that taught in Hush '968", in view of teachings from U.S. Patent 6,441,542 to Hush et al. (hereinafter "Hush '542").

Each of claims 4, 5, and 7-12 is allowable, among other reasons, for depending directly or indirectly from claim 1, which is allowable.

Claims 16-20 and 24-27 are each allowable, among other reasons, for depending directly or indirectly from claim 13, which is allowable.

It is further submitted that, in the event that a Continued Prosecution Application (“CPA”) is filed, the rejections of claims 4, 5, 7-12, 16-20, and 24-27 would be rendered moot.

Hush ‘968 resulted from an application that was filed on January 7, 1997, but did not issue until August 31, 1999. The above-referenced application has a priority date of August 31, 1999. Therefore, the only subsection of 35 U.S.C. § 102 under which Hush ‘968 qualifies as prior art to the above-referenced application is subsection (e).

Likewise, Hush ‘542 issued on August 27, 2002, from an application filed on July 21, 1999. Thus, Hush ‘542 only qualifies as prior art to the above-referenced application under 35 U.S.C. § 103(a).

With respect to rejections under 35 U.S.C. § 103(a) that are based upon references which qualify as prior art under 35 U.S.C. § 102(e), 35 U.S.C. § 103(c) provides:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

M.P.E.P. § 706.02(l)(1) indicates that 35 U.S.C. 103(c) applies to all applications which have filing or priority dates of November 29, 1999, or later:

This change to 35 U.S.C. 103(c) applies to all utility, design and plant patent applications filed on or after November 29, 1999, including continuing applications filed under 37 CFR 1.53(b), continued prosecution applications filed under 37 CFR 1.53(d), and reissues.

In the event that a CPA is filed, the above-referenced application would have an effective filing date later than November 29, 1999, and, therefore, would benefit from the provisions of 35 U.S.C. § 103(c).

M.P.E.P. § 706.02(1)(3) explains that the evidentiary burden of the requirement that the subject matter and claimed invention be, “at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person” is met merely by a statement to that effect:

Applications and patents will be considered to be owned by, or subject to an obligation of assignment to, the same person, at the time the invention was made, if the applicant(s) or an attorney or agent of record makes a statement to the effect that the application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person(s) or organization(s).

See also M.P.E.P. § 706.02(1)(2)

At the time the invention disclosed in the above-referenced application was made, it was owned by or subject to an obligation of assignment to Micron Technology, Inc., as evidenced by the assignment recorded at Reel No. 010393, Frame No. 0333. Micron Technology, Inc. is the same party to which Hush ‘968 and Hush 252‘had already been assigned, as indicated by the cover sheets of Hush ‘968 and Hush ‘252.

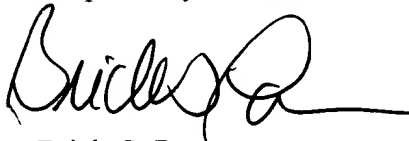
Accordingly, Hush ‘968 and Hush ‘252 may not be relied upon in a rejection of any of the claims of the above-referenced application under 35 U.S.C. § 103(a).

Therefore, withdrawal of the 35 U.S.C. § 103(a) rejections of claims 4, 5, 7-12, 16-20, and 24-27 is respectfully requested.

CONCLUSION

It is respectfully submitted that each of claims 1-27 is allowable. An early notice of the allowability of each of these claims is respectfully solicited, as is an indication that the above-referenced application has been passed for issuance. If any issues preventing allowance of the above-referenced application remain which might be resolved by way of a telephone conference, the Office is kindly invited to contact the undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brick G. Power', with a long horizontal flourish extending to the right.

Brick G. Power
Registration No. 38,581
Attorney for Applicant(s)
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: January 24, 2005
BGP/ps:rh

Enclosures: Appendices A and B
Replacement Formal Drawings (Appendix C)

Document in ProLaw

IN THE DRAWINGS:

Attached are replacement formal drawings for FIGS. 1, 1A, 2, 2A, 3, 4, 5A, and 5B, including corrections, in red, on FIG. 1 to include reference 50 and its accompanying lead line.